

(Pub. L. 100-690, title V, §5145, Nov. 18, 1988, 102 Stat. 4304.)

§ 11925. Regulations

Not later than 6 months after November 18, 1988, the Secretary shall issue any regulations necessary to carry out this subchapter.

(Pub. L. 100-690, title V, §5146, Nov. 18, 1988, 102 Stat. 4304.)

CHAPTER 125—RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY COMPETITIVENESS

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§ 12001. Finding, purpose, and general authority

(a) Finding

The Congress finds that it is in the national security and economic interest of the United States to foster greater efficiency in the use of available energy supplies and greater use of renewable energy technologies.

(b) Purpose

It is the purpose of this chapter to authorize the Secretary of Energy, acting in accordance with section 13541 of this title, to pursue an aggressive national program of research, development, demonstration, and commercial application of renewable energy and energy efficiency technologies in order to ensure a stable and secure future energy supply by—

- (1) achieving as soon as practicable cost competitive use of those technologies without need of Federal financial incentives;
- (2) establishing long-term Federal research goals and multiyear funding levels;
- (3) directing the Secretary to undertake initiatives to improve the ability of the private sector to commercialize in the near term renewable energy and energy efficiency technologies; and
- (4) fostering collaborative efforts involving the private sector through government support of a program of demonstration and commercial application projects.

(c) General authority

The Secretary, acting in accordance with section 13541 of this title, is authorized and directed to—

- (1) pursue a program of research, development, demonstration, and commercial application with the private sector, to achieve the purpose of this chapter, including the goals established under section 12003 of this title; and
- (2) undertake demonstration and commercial application projects as provided in section 12005 of this title.

(Pub. L. 101-218, §2, Dec. 11, 1989, 103 Stat. 1859; Pub. L. 102-486, title XII, §1202(d)(1)–(3), Oct. 24, 1992, 106 Stat. 2959, 2960.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c)(1), was in the original “this Act”, meaning Pub. L. 101-218, Dec. 11, 1989, 103 Stat. 1859, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-486, §1202(d)(1), substituted “section 13541 of this title” for “authority contained in the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920) and other law applicable to the Secretary” and “demonstration, and commercial application” for “and demonstration”.

Subsec. (b)(4). Pub. L. 102-486, §1202(d)(2), substituted “efforts” for “research and development efforts” and “demonstration and commercial application projects” for “joint ventures”.

Subsec. (c). Pub. L. 102-486, §1202(d)(3), substituted “section 13541 of this title, is authorized and directed to—” and pars. (1) and (2) for “the authority contained in the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920) and other law applicable to the Secretary—

“(1) is authorized and directed to—

“(A) pursue a program of research, development, and demonstration, including the use of joint ventures with the private sector, to achieve the purpose of this chapter, including the goals established under section 12003 of this title; and

“(B) undertake joint ventures as provided in section 12005 of this title; and

“(2) is authorized to undertake, from time to time, joint ventures in technology areas other than those set forth in section 12005(c) of this title, subject to the conditions set forth in section 12005(b) of this title.”

SHORT TITLE

Section 1 of Pub. L. 101-218 provided: “That this Act [enacting this chapter and amending sections 6276 and 8243 of this title, section 2857 of Title 10, Armed Forces, and section 2194 of Title 22, Foreign Relations and Intercourse] may be referred to as the ‘Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989’.”

§ 12002. Definitions

As used in this chapter—

(1) the term “invention” means an invention or discovery that is patented or for which a patent may be obtained under title 35, or any novel variety of plant that is protected or for which plant variety protection may be obtained under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) and that is conceived or reduced to practice as a result of work under an agreement entered into under this chapter;

(2) the term “non-Federal person” means an entity located in the United States, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including—

- (A) a for-profit business;
- (B) a private foundation;
- (C) a nonprofit organization such as a university;
- (D) a trade or professional society; and
- (E) a unit of State or local government;

(3) the term “Secretary” means the Secretary of Energy;

(4) the term “small business”, with respect to a participant in any demonstration and commercial application project under this chapter, means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 632(a) of title 15 for the Standard Industrial Classification (SIC) code designated by the Secretary of Energy as the primary business activity to be undertaken in the demonstration and commercial application project;

(5) the term “source reduction” means any practice which—

(A) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

(B) reduces the hazards to the public health and the environment associated with the release of such substances, pollutants, or contaminants,

including equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, and inventory control, but not including any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service;¹

(6) the term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(Pub. L. 101-218, § 3, Dec. 11, 1989, 103 Stat. 1859; Pub. L. 102-486, title XII, § 1202(d)(4), Oct. 24, 1992, 106 Stat. 2960.)

REFERENCES IN TEXT

The Plant Variety Protection Act, referred to in par. (1), is Pub. L. 91-577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§2321 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of Title 7 and Tables.

AMENDMENTS

1992—Pars. (2) to (5). Pub. L. 102-486 redesignated pars. (3) to (5) as (2) to (4), respectively, in par. (4) sub-

stituted “any demonstration and commercial application project” for “any joint venture” and “in the demonstration and commercial application project;” for “in the venture; and”, added par. (5), and struck out former par. (2) which read as follows: “‘joint venture’ means any agreement entered into under this chapter by the Secretary with more than one or a consortium of non-Federal persons (including a joint venture under the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.)) for cost-shared research, development, or demonstration of technologies, but does not include procurement contracts, grant agreements, or cooperative agreements as those terms are used in sections 6303, 6304, and 6305 of title 31;”.

§ 12003. National goals and multi-year funding for Federal wind, photovoltaics, and solar thermal programs

(a) National goals

The following are declared to be the national goals for the wind, photovoltaics, and solar thermal energy programs being carried out by the Secretary:

(1) Wind

(A) In general, the goals for the Wind Energy Research Program include improving design methodologies and developing more reliable and efficient wind turbines to increase the cost competitiveness of wind energy. Research efforts shall emphasize—

(i) activities that address near-term technical problems and assist private sector exploitation of market opportunities of the wind energy industry;

(ii) developing technologies such as advanced airfoils and variable speed generators to increase wind turbine output and reduce maintenance costs by decreasing structural stress and fatigue;

(iii) increasing the basic knowledge of aerodynamics, structural dynamics, fatigue, and electrical systems interactions as applied to wind energy technology; and

(iv) improving the compatibility of electricity produced from wind farms with conventional utility needs.

(B) Specific goals for the Wind Energy Research Program shall be to—

(i) reduce average wind energy costs to 3 to 5 cents per kilowatt hour by 1995;

(ii) reduce capital costs of new wind energy systems to \$500 to \$750 per kilowatt of installed capacity by 1995;

(iii) reduce operation and maintenance costs for wind energy systems to less than one cent per kilowatt hour by 1995; and

(iv) increase capacity factors for new wind energy systems to 25 to 35 percent by 1995.

(2) Photovoltaics

(A) In general, the goals of the Photovoltaic Energy Systems Program shall include improving the reliability and conversion efficiencies of and lowering the costs of photovoltaic conversion. Research efforts shall emphasize advancements in the performance, stability, and durability of photovoltaic materials.

(B) Specific goals of the Photovoltaic Energy Systems Program shall be to—

(i) improve operational reliability of photovoltaic modules to 30 years by 1995;

¹ So in original. Probably should be “; and”.

- (ii) increase photovoltaic conversion efficiencies by 20 percent by 1995;
- (iii) decrease new photovoltaic module direct manufacturing costs to \$800 per kilowatt by 1995; and
- (iv) increase cost efficiency of photovoltaic power production to 10 cents per kilowatt hour by 1995.

(3) Solar thermal

(A) In general, the goal of the Solar Thermal Energy Systems Program shall be to advance research and development to a point where solar thermal technology is cost-competitive with conventional energy sources, and to promote the integration of this technology into the production of industrial process heat and the conventional utility network. Research and development shall emphasize development of a thermal storage technology to provide capacity for shifting power to periods of demand when full insolation is not available; improvement in receivers, energy conversion devices, and innovative concentrators using stretch membranes, lenses, and other materials; and exploration of advanced manufacturing techniques.

(B) Specific goals of the Solar Thermal Energy Systems Program shall be to—

- (i) reduce solar thermal costs for industrial process heat to \$9.00 per million Btu by 1995; and
- (ii) reduce average solar thermal costs for electricity to 4 to 5 cents per kilowatt hour by 1995.

(4) Alcohol from biomass

(A) In general, the goal of the Alcohol From Biomass Program shall be to advance research and development to a point where alcohol from biomass technology is cost-competitive with conventional hydrocarbon transportation fuels, and to promote the integration of this technology into the transportation fuel sector of the economy.

(B)(i) Specific goals for producing ethanol from biomass shall be to—

- (I) reduce the cost of alcohol to 70 cents per gallon;
- (II) improve the overall biomass carbohydrate conversion efficiency to 91 percent;
- (III) reduce the capital cost component of the cost of alcohol to 23 cents per gallon; and
- (IV) reduce the operating and maintenance component of the cost of alcohol to 47 cents per gallon.

(ii) Specific goals for producing methanol from biomass shall be to—

- (I) reduce the cost of alcohol to 47 cents per gallon; and
- (II) reduce the capital component of the cost of alcohol to 16 cents per gallon.

(5) Other technologies

The Secretary shall submit to the Congress, as part of the first report submitted under section 12006 of this title, recommendations for specific cost goals and other pertinent goals for 1995 for Department of Energy research, development, and demonstration programs in Biofuels Energy Systems, Biodiesel Energy Systems, Hydrogen Energy Systems, Solar

Buildings Energy Systems, Ocean Energy Systems, Geothermal Energy Systems, Low-Head Hydro, and Energy Storage Systems.

(b) Amended goals

Whenever the Secretary determines that any of the goals established under this section is no longer appropriate, the Secretary shall notify Congress, as part of a report submitted under section 12006 of this title, of the reason for the determination and provide an amended goal that is consistent with the purpose stated in section 12001(b) of this title.

(c) Authorizations

There are authorized to be appropriated to the Secretary for the following renewable energy research, development, and demonstration programs: the Wind Energy Research Program, the Photovoltaic Energy Systems Program, the Solar Thermal Energy Systems Program, the Biofuels Energy Systems Program, the Hydrogen Energy Systems Program, the Solar Buildings Energy Systems Program, the Ocean Energy Systems Program, and the Geothermal Energy Systems Program—

(1) not to exceed \$113,000,000 for fiscal year 1991, of which—

(A) not to exceed \$39,000,000 shall be available for the Photovoltaic Energy Systems Program;

(B) not to exceed \$19,000,000 shall be available for the Geothermal Energy Systems Program; and

(C) not to exceed \$4,000,000 shall be available for the Hydrogen Energy Systems Program; and

(2) not to exceed \$121,000,000 for fiscal year 1992, of which—

(A) not to exceed \$40,000,000 shall be available for the Photovoltaic Energy Systems Program;

(B) not to exceed \$20,500,000 shall be available for the Geothermal Energy Systems Program; and

(C) not to exceed \$5,000,000 shall be available for the Hydrogen Energy Systems Program.

Each of the President's annual budget requests submitted to Congress after December 11, 1989, shall include as separate line items each of the categories of renewable energy programs described in this subsection.

(Pub. L. 101-218, § 4, Dec. 11, 1989, 103 Stat. 1860; Pub. L. 102-486, title XII, § 1202(b), title XXI, § 2125(1)-(3), Oct. 24, 1992, 106 Stat. 2958, 3085.)

AMENDMENTS

1992—Subsec. (a)(4), (5). Pub. L. 102-486, § 1202(b)(1), added par. (4), redesignated former par. (4) as (5), and inserted “Biodiesel Energy Systems,” after “Biofuels Energy Systems.”

Subsec. (c)(3). Pub. L. 102-486, § 2125(1)-(3), struck out par. (3) which read as follows: “not to exceed \$124,000,000 for fiscal year 1993, of which—

“(A) not to exceed \$40,000,000 shall be available for the Photovoltaic Energy Systems Program;

“(B) not to exceed \$23,000,000 shall be available for the Geothermal Energy Systems Program; and

“(C) not to exceed \$6,000,000 shall be available for the Hydrogen Energy Systems Program.”

§ 12004. Energy efficiency authorizations

There are authorized to be appropriated to the Secretary for the following energy efficiency research, development, and demonstration programs: transportation, industrial, buildings and community systems, multi-sector, and policy and management—

(1) not to exceed \$201,100,000 for fiscal year 1991, of which—

(A) not to exceed \$68,300,000 shall be available for the transportation program; and

(B) not to exceed \$53,500,000 shall be available for the industrial program; and

(2) not to exceed \$210,600,000 for fiscal year 1992, of which—

(A) not to exceed \$71,000,000 shall be available for the transportation program; and

(B) not to exceed \$54,700,000 shall be available for the industrial program.

(Pub. L. 101-218, § 5, Dec. 11, 1989, 103 Stat. 1862; Pub. L. 102-486, title XXI, § 2125(4)-(6), Oct. 24, 1992, 106 Stat. 3085.)

AMENDMENTS

1992—Par. (3). Pub. L. 102-486 struck out par. (3) which read as follows: “not to exceed \$225,000,000 for fiscal year 1993, of which—

“(A) not to exceed \$73,900,000 shall be available for the transportation program; and

“(B) not to exceed \$56,900,000 shall be available for the industrial program.”

§ 12005. Demonstration and commercial application projects**(a) Purpose**

The purpose of this section is to direct the Secretary to further the commercialization of renewable energy and energy efficiency technologies through a five-year program.

(b) Demonstration and commercial application projects**(1) Establishment**

(A) The Secretary shall solicit proposals for demonstration and commercial application projects for renewable energy and energy efficiency technologies pursuant to subsection (c) of this section. Such projects may include projects for—

(i) the production and sale of electricity, thermal energy, or other forms of energy using a renewable energy technology;

(ii) increasing the efficiency of energy use; and

(iii) improvements in, or expansion of, facilities for the manufacture of renewable energy or energy efficiency technologies.

(B) **REQUIREMENTS.**—Each project selected under this section shall include at least one for-profit business. Activities supported under this section shall be performed in the United States. Each project under this section shall require the manufacture and reproduction substantially within the United States for commercial sale of any invention or product that may result from the project.

(2) Forms of financial assistance

(A) In supporting projects selected under subsection (c) of this section, the Secretary

may choose from among the forms of agreements described in section 13541 of this title.

(B) In supporting projects selected under subsection (c) of this section, the Secretary may also enter into agreements with private lenders to pay a portion of the interest on loans made for such projects.

(3) Cost sharing

Cost sharing for projects under this section shall be conducted according to the procedures described in section 13542(b) and (c) of this title.

(4) Advisory Committee

(A) The Secretary shall establish an Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this chapter referred to as the “Advisory Committee”) to advise the Secretary on the development of the solicitation and evaluation criteria for projects under this section, and on otherwise carrying out his responsibilities under this section. The Secretary shall appoint members to the Advisory Committee, including at least one member representing—

(i) the Secretary of Commerce;

(ii) the National Laboratories of the Department of Energy;

(iii) the Solar Energy Research Institute;

(iv) the Electric Power Research Institute;

(v) the Gas Research Institute;

(vi) the National Institute of Building Sciences;

(vii) the National Institute of Standards and Technology;

(viii) associations of firms in the major renewable energy manufacturing industries; and

(ix) associations of firms in the major energy efficiency manufacturing industries.

Nothing in this subparagraph shall be construed to require the Secretary to reestablish the Advisory Committee in place under this subsection as of October 24, 1992, or to perform again any duties performed by such advisory committee before October 24, 1992.

(B) Not later than 18 months after October 24, 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the program under this section, including specific recommendations for improvements or changes to the program and solicitation process. The Secretary shall transmit such report and, if any, the Secretary's recommendations to the Congress.

(c) Selection of projects**(1) Solicitation**

(A) Not later than 9 months after October 24, 1992, the Secretary shall solicit proposals for projects under this section. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(B) A solicitation for proposals under this paragraph shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

(C) Each solicitation under this paragraph shall include a description of the criteria, developed by the Secretary, according to which proposals will be evaluated. In developing such criteria, the Secretary shall consider—

- (i) the need for Federal involvement to commercialize the technology or speed commercialization of the technology;
- (ii) the potential for the technology to have significant market penetration;
- (iii) the potential energy efficiency gains or energy supply contributions of the technology;
- (iv) potential environmental improvements associated with the technology;
- (v) the export potential of the technology;
- (vi) the likelihood that the proposal is technically sufficient to achieve the objective of the solicitation;
- (vii) the degree to which non-Federal financial participation is involved in the proposal;
- (viii) the business and financial history of the proposer or proposers; and
- (ix) any other factor the Secretary considers appropriate.

(2) Project technologies

Projects under this section may include the following technologies:

- (A) Conversion of cellulosic biomass to liquid fuels.
- (B) Ethanol and ethanol byproduct processes.
- (C) Direct combustion or gasification of biomass.
- (D) Biofuels energy systems.
- (E) Photovoltaics, including utility scale and remote applications.
- (F) Solar thermal, including solar water heating.
- (G) Wind energy.
- (H) High temperature and low temperature geothermal energy.
- (I) Fuel cells, including transportation and stationary applications.
- (J) Nondefense high-temperature superconducting electricity technology.
- (K) Source reduction technology.
- (L) Factory-made housing.
- (M) Advanced district cooling.

(3) Project selection

The Secretary shall, within 120 days after the closing date established under paragraph (1)(B), select proposals to receive financial assistance under this section. In selecting proposals under this paragraph, the Secretary shall—

- (A) consider each proposal's ability to meet the criteria developed pursuant to paragraph (1)(C); and
- (B) attempt to achieve technological and geographic diversity.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section \$50,000,000 for fiscal year 1994.

(Pub. L. 101-218, §6, Dec. 11, 1989, 103 Stat. 1863; Pub. L. 102-486, title XII, §1202(a), Oct. 24, 1992, 106 Stat. 2956.)

AMENDMENTS

1992—Pub. L. 102-486 amended section generally, substituting provisions relating to demonstration and commercial application projects for renewable energy and energy efficiency technologies for provisions relating to use of joint ventures to further commercialization of renewable energy and energy efficiency technologies.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 12006. Reports

(a) Report by Secretary

One year after December 11, 1989, and annually thereafter, the Secretary shall report to Congress on the programs and projects supported under this chapter and the progress being made toward accomplishing the goals and purposes set forth in this chapter.

(b) National renewable energy and energy efficiency management plan

(1) The Secretary, in consultation with the Advisory Committee, shall prepare a three-year management plan to be administered and carried out by the Secretary in the conduct of activities under this chapter.

(2) After opportunity for public comment and consideration, as appropriate, of such comment, the Secretary shall publish the plan.

(3) In addition to describing the Secretary's intentions for administering this chapter, the plan shall include a comprehensive strategy for assisting the private sector—

(A) in commercializing the renewable energy and energy efficiency technologies developed under this chapter; and

(B) in meeting competition from foreign suppliers of products derived from renewable energy and energy efficiency technologies.

(4) The plan shall address the role of federally-assisted research, development, and demonstration in the achievement of applicable national policy goals of the National Energy Policy Plan required under section 7321 of this title and the plan developed under section 5905 of this title.

(5) In addition, the Plan¹ shall—

(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under section 12005 of this title;

(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

(C) establish milestones for setting forth specific technology transfer activities under each program area;

(D) include annual and five-year cost estimates for individual programs under this chapter; and

¹ So in original. Probably should not be capitalized.

(E) identify program areas for which funding levels have been changed from the previous year's Plan.¹

(6) Within one year after October 24, 1992, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.

(c) Report on options

As part of the first report submitted under subsection (a) of this section, the Secretary shall submit to Congress a report analyzing options available to the Secretary under existing law to assist the private sector with the timely commercialization of wind, photovoltaic, solar thermal, biofuels, hydrogen, solar buildings, ocean, geothermal, low-head hydro, and energy storage renewable energy technologies and energy efficiency technologies through emphasis on development and demonstration assistance to specific technologies in the research, development, and demonstration programs of the Department of Energy that are near commercial application.

(Pub. L. 101-218, §9, Dec. 11, 1989, 103 Stat. 1868; Pub. L. 102-486, title XII, §1202(c), (d)(5), title XXIII, §2303(b), Oct. 24, 1992, 106 Stat. 2959, 2960, 3093.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-486, §1202(d)(5), substituted “and projects” for “, projects, and joint ventures”.

Subsec. (b)(1). Pub. L. 102-486, §1202(c)(1), inserted “three-year” before “management plan”.

Subsec. (b)(4). Pub. L. 102-486, §2303(b), inserted before period at end “and the plan developed under section 5905 of this title”.

Subsec. (b)(5), (6). Pub. L. 102-486, §1202(c)(2), added pars. (5) and (6) and struck out former par. (5) which read as follows: “The plan shall accompany the President's annual budget submission to the Congress.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which reports required under subssecs. (a) and (b) of this section are listed as the 20th item on page 84 and the 19th item on page 86), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 12007. No antitrust immunity or defenses

Nothing in this chapter shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, “antitrust laws” means those Acts set forth in section 12 of title 15.

(Pub. L. 101-218, §10, Dec. 11, 1989, 103 Stat. 1869.)

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